



Idaho Justice Reinvestment Working Group

Third Meeting

October 31, 2013

Council of State Governments Justice Center

Marc Pelka, Program Director
Anne Bettesworth, Policy Analyst
Ed Weckerly, Data Analyst
Chenise Bonilla, Program Associate



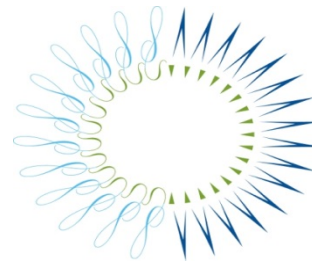
Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



Justice Reinvestment

*a data-driven approach to reduce corrections spending
and reinvest savings in strategies that can
decrease recidivism and increase public safety.*



A data-driven “Idaho Solution” for increased public safety and cost-effectiveness

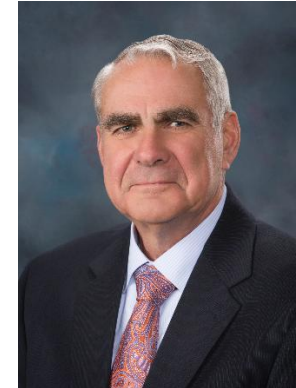
IN THE SENATE
SENATE CONCURRENT
RESOLUTION NO. 128
BY JUDICIARY AND RULES
COMMITTEE

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE
LEGISLATURE AND AUTHORIZING
THE LEGISLATIVE COUNCIL TO
APPOINT A COMMITTEE TO
UNDERTAKE AND COMPLETE A
STUDY OF THE IDAHO CRIMINAL
JUSTICE SYSTEM.

Idaho Legislature enacts bipartisan resolution authorizing the establishment of an Interim Committee to undertake a study of the state’s criminal justice system.



Governor Otter, Chief Justice Burdick, Senate Pres. Pro Tem Hill, and legislative leaders launch justice reinvestment



Legislative Interim Committee and Justice Reinvestment Working Group formed, both chaired by Senator Lode and Representative Wills

“Our corrections system is consuming an increasing share of our budget. We have a simple choice to make: continue down this path, or use data to find a smarter way to protect the public and be better stewards of tax dollars.”

Governor C.L. “Butch” Otter

Justice Reinvestment Process – Phase I and II

Bipartisan, bicameral, inter-branch working group

Phase I

Analyze Data & Develop Policy Options

- Analyze data; look at crime, courts, corrections, and supervision trends
- Solicit input from stakeholders
- Assess behavioral health system and treatment capacity
- Develop policy options and estimate cost savings

Phase 2

Implement New Policies

- Identify assistance needed to implement policies effectively
- Deploy targeted reinvestment strategies to increase public safety
- Track the impact of enacted policies/programs
- Monitor recidivism rates and other key measures

Input gathered from across Idaho since last meeting

Numerous interactions with criminal justice system stakeholders in the past two months

- District Judges
- Department of Correction
- Chiefs of Police Association
- Prosecuting Attorneys Association
- Sheriffs' Association
- Coalition Against Sexual & Domestic Violence
- Association of Counties
- Parole Commission Members & Hearing Officers

Interactive presentation with all the state's district judges

Nighttime ride-along with the Meridian Police Department

Statewide online survey of sheriffs and Bonneville County jail tour

Presentation to county commissioners at conference

Full day meeting with hearing officers and decision-makers

Summary of Today's Presentation – The Big Picture

Idaho's incarceration rate is higher than states with similar crime rates, and is costly and unsustainable

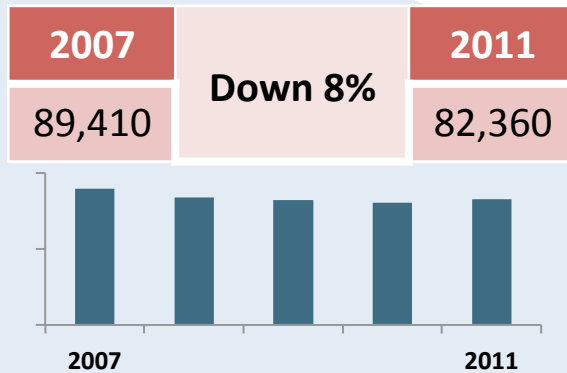
A revolving door of recidivism from supervision and diversion programs is costly and ineffective

Rates of recidivism could be lowered by increasing the use of best practices

Sanctions for revocations are long and costly, and not tailored for supervision violation behavior

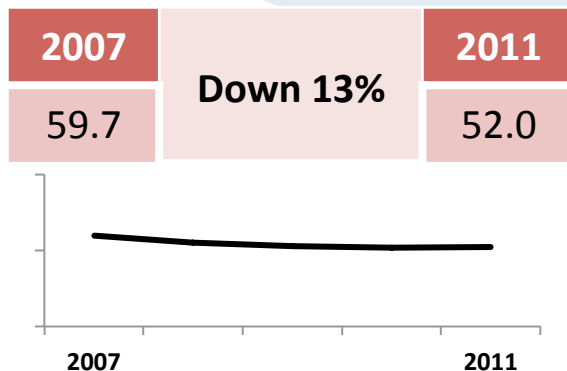
Idaho's crime rate is low compared to the national rate and continuing to decline

Total Reported Crimes



Total Crime Rate

(Reported Crimes per 1,000 population)



2007-2011 Change

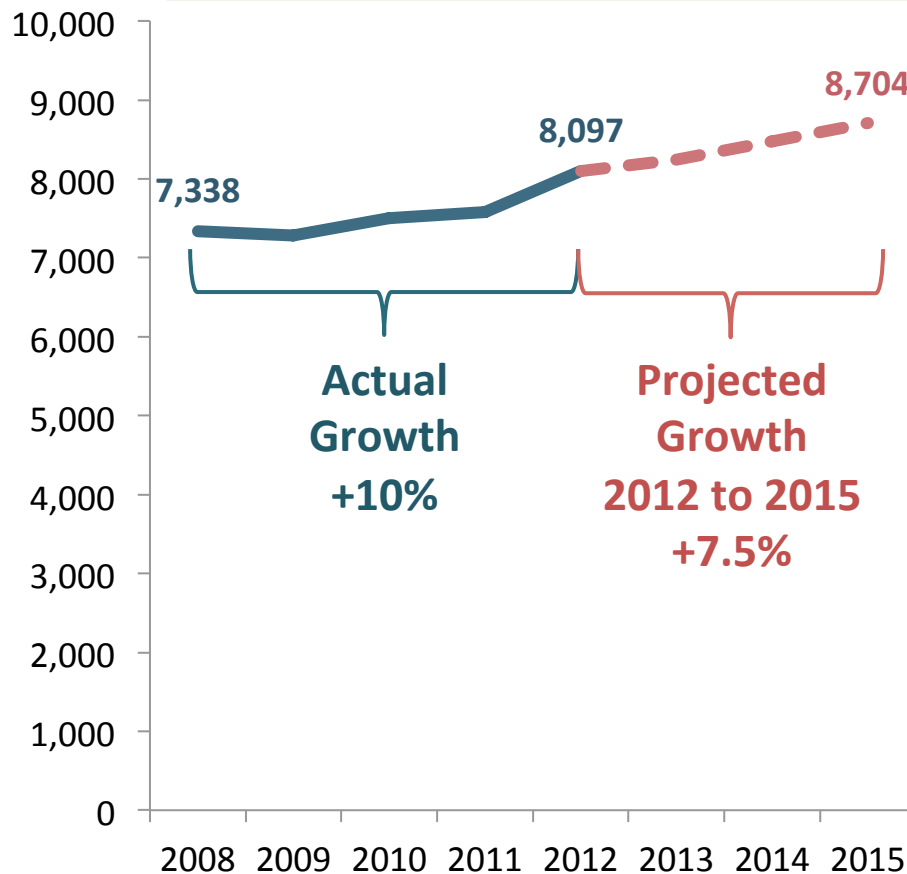
Total Crimes Against Persons	Down 15%
Murder/All Manslaughter*	Down 44%
Aggravated Assault	Down 12%
Simple Assault	Down 12%
All Sex Crimes	Down 24%
Total Crimes Against Property	Down 9%
Robbery	Down 21%
Larceny/Theft	Down 1%
Burglary/Breaking and Entering	Down 4%
Destruction of Property	Down 19%
Motor Vehicle Theft	Down 42%
Adult DUI Arrests	Down 16%

*Small numbers – 30 to 50 per year

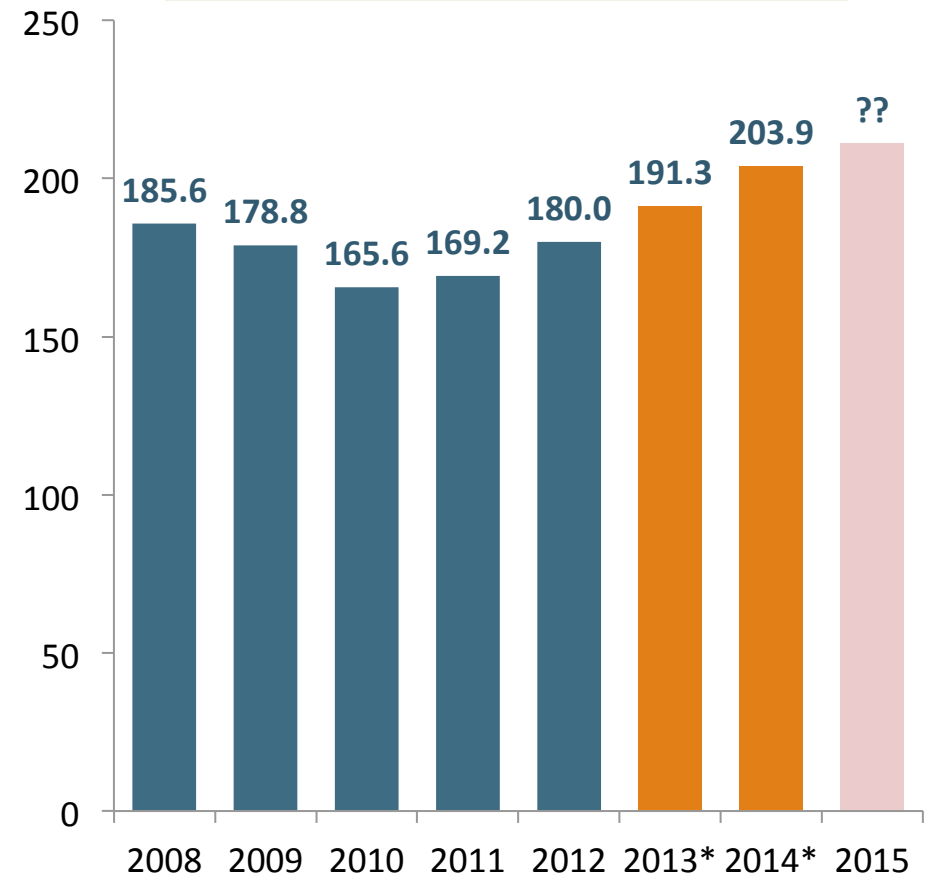
Source: Idaho State Police, *Crime in Idaho 2011* and Idaho Statistical Analysis Center's Crime in Idaho online data tool.

Corrections growth is projected to continue at great cost if left unaddressed

Prison Snapshot Populations with Preliminary Forecast, 2008-2015



Total IDOC Expenditures (in millions), FY2008-2015



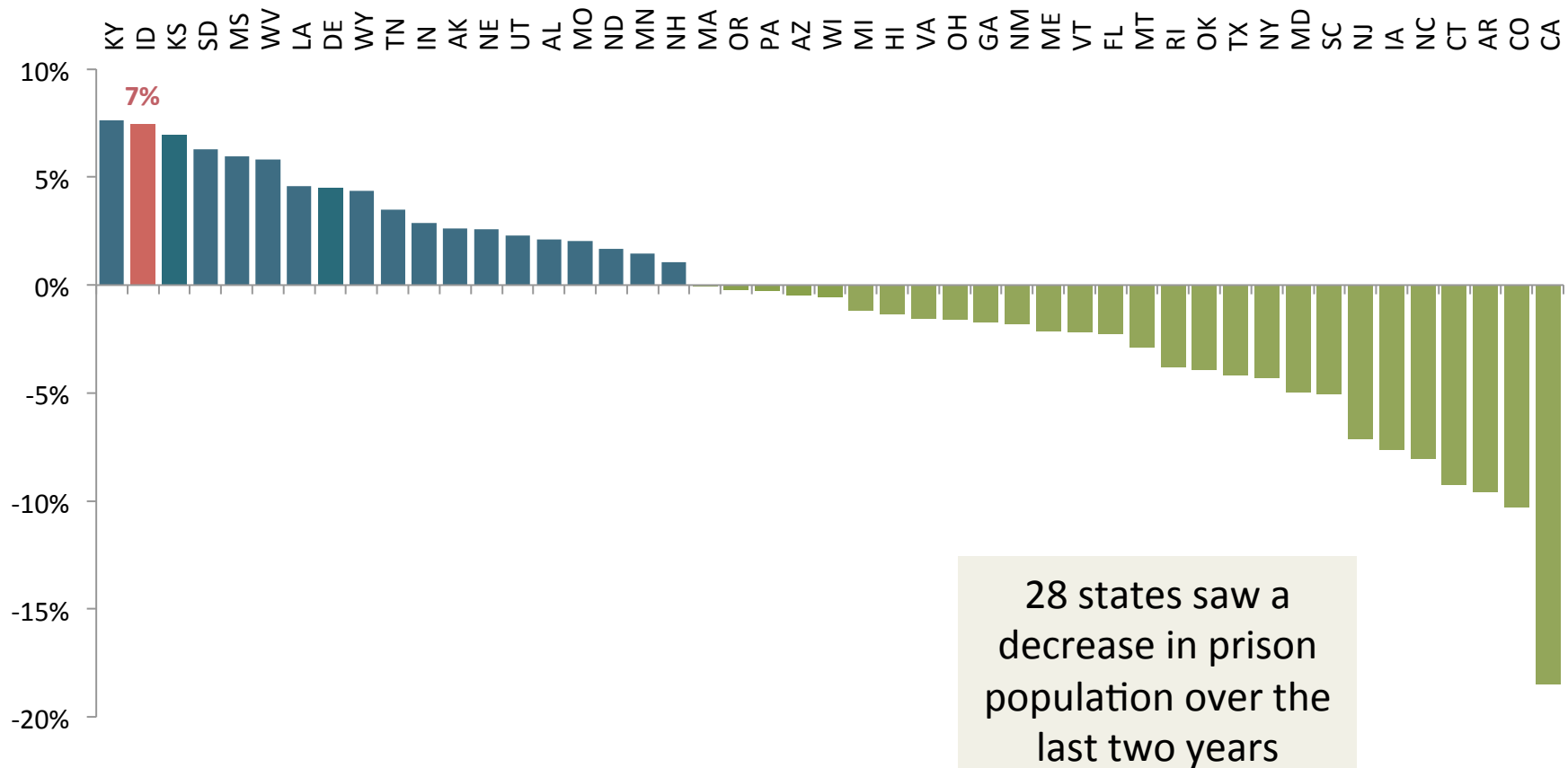
* FY2013, FY2014 Budget Appropriation

Prison total includes Term, Rider and Parole Violator inmates.

Source: IDOC Standard Reports, IDOC Preliminary Forecast, Idaho Legislative Budget Books, 2013 Legislative Fiscal Report.

Prison percentage growth in Idaho has outpaced almost all other states in recent years

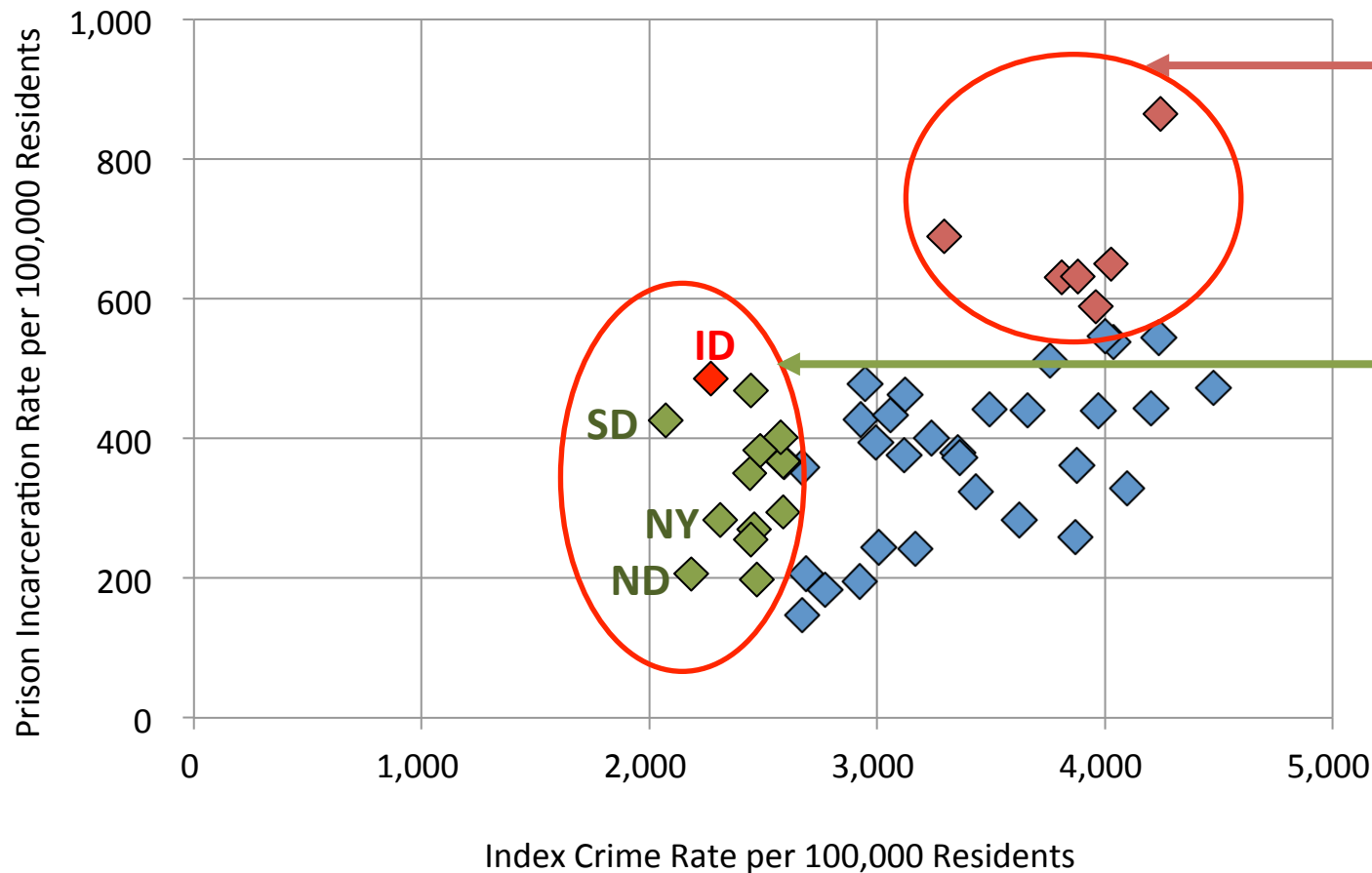
Prison Population Percentage Change, 2010-2012



Excludes 3 states with that did not report 2012 data

Source: BJS, Prisoners in 2011 and Prisoners in 2012- Advance Counts.

Idaho's incarceration rate is higher than states with similar crime rates



Idaho outperforms some states on both measures

Among states with similar crime rates, Idaho has the highest incarceration rate

If Riders were not included, Idaho's incarceration rate would be near South Dakota's

Source: BJS, *Prisoners in 2011* and FBI, *Crime in the U.S. 2011*.

Presentation Overview

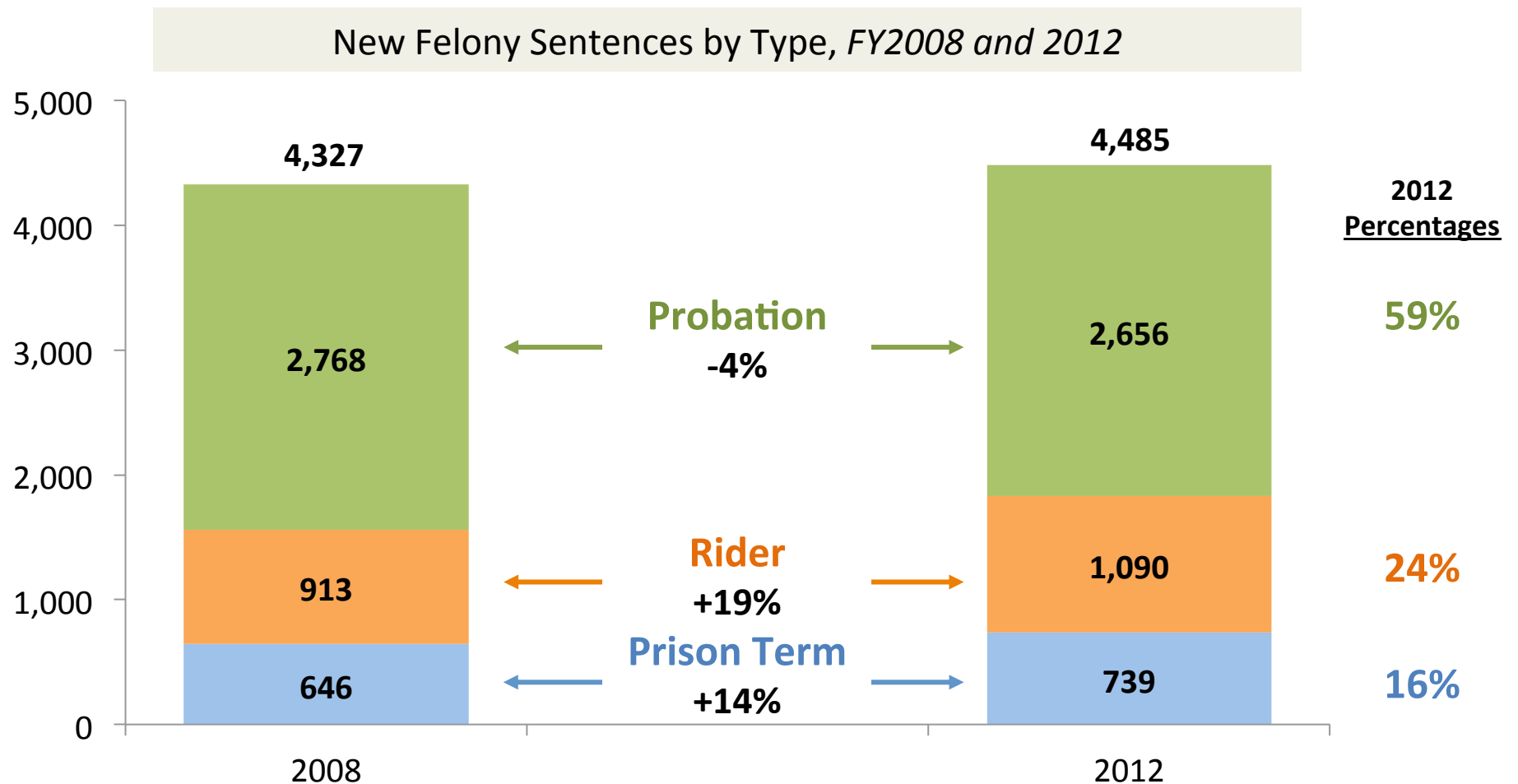


Recidivism from supervision and diversion programs

How Idaho can lower recidivism by using best practices

Long and costly sanctions for revocations

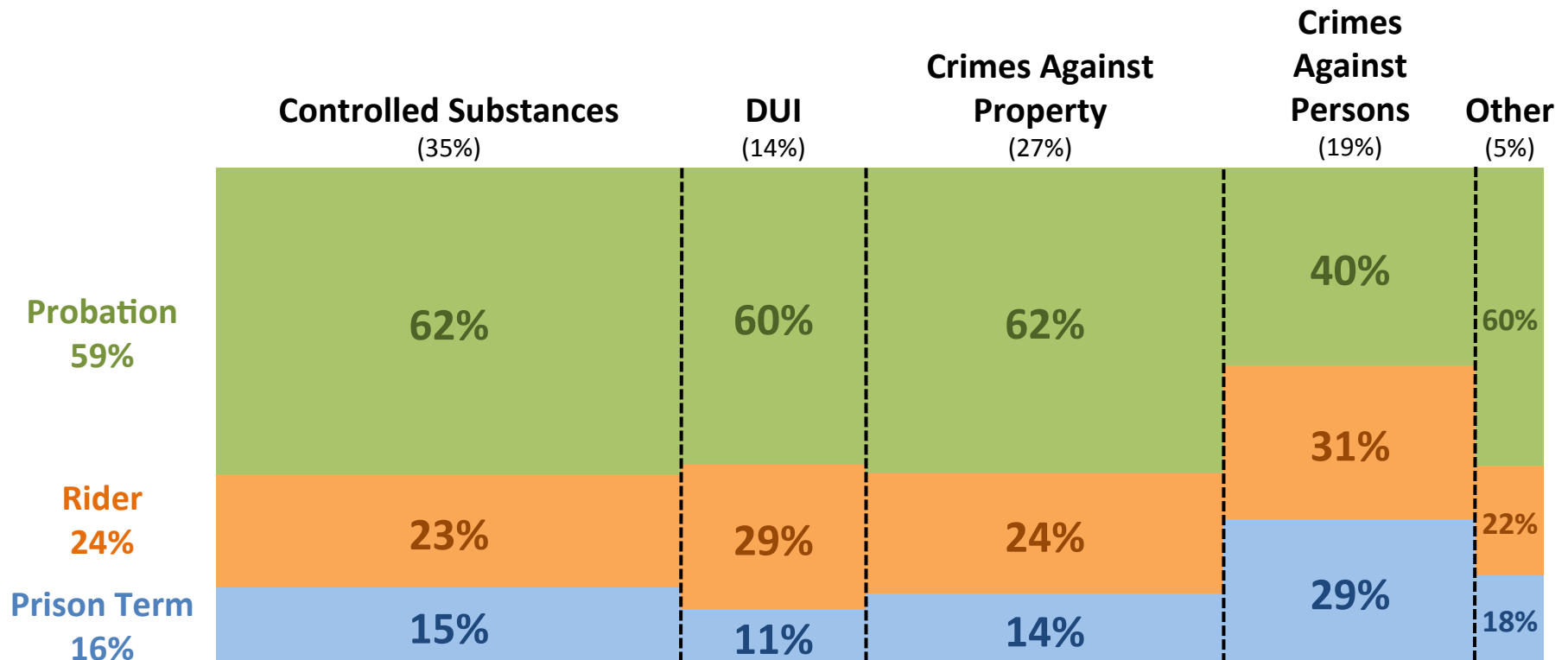
Most felons are sentenced to probation and, increasingly, the Rider program



Source: IDOC admissions and release data.

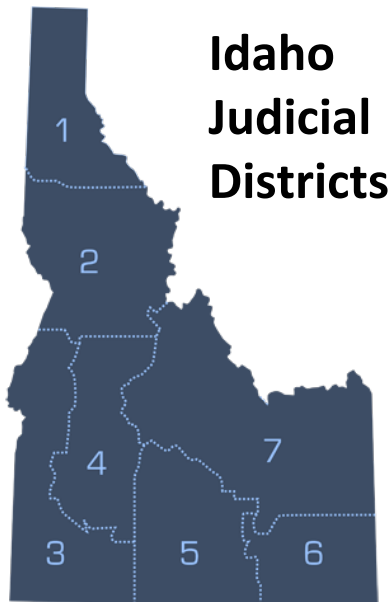
Probation is used most often in property and drug offenses, and Rider or prison is more common in person crimes

New Felony Sentences by Type and Offense Type, *FY2012* (N = 4,485)



Source: IDOC admissions and release data.

Use of Rider and prison varies by district, crime and alternative sentencing options



**Idaho
Judicial
Districts**

Judicial District	Distribution of New Felony Sentences, FY2008-12		
	Probation	Rider	Term
1	62%	27%	11%
2	64%	26%	10%
3	63%	20%	17%
4	51%	29%	21%
5	53%	33%	14%
6	62%	25%	13%
7	69%	18%	13%
Total	62%	24%	15%

District 7 is recognized for offering a range of alternative sentencing options (Wood Pilot Project, other problem solving courts)

District 4 also had a slightly larger proportion of Crimes Against Persons during this period

District 5 had a larger proportion of Controlled Substance offenses

Source: IDOC admissions and release data.

Risk assessment guides decision-making in many parts in the the system

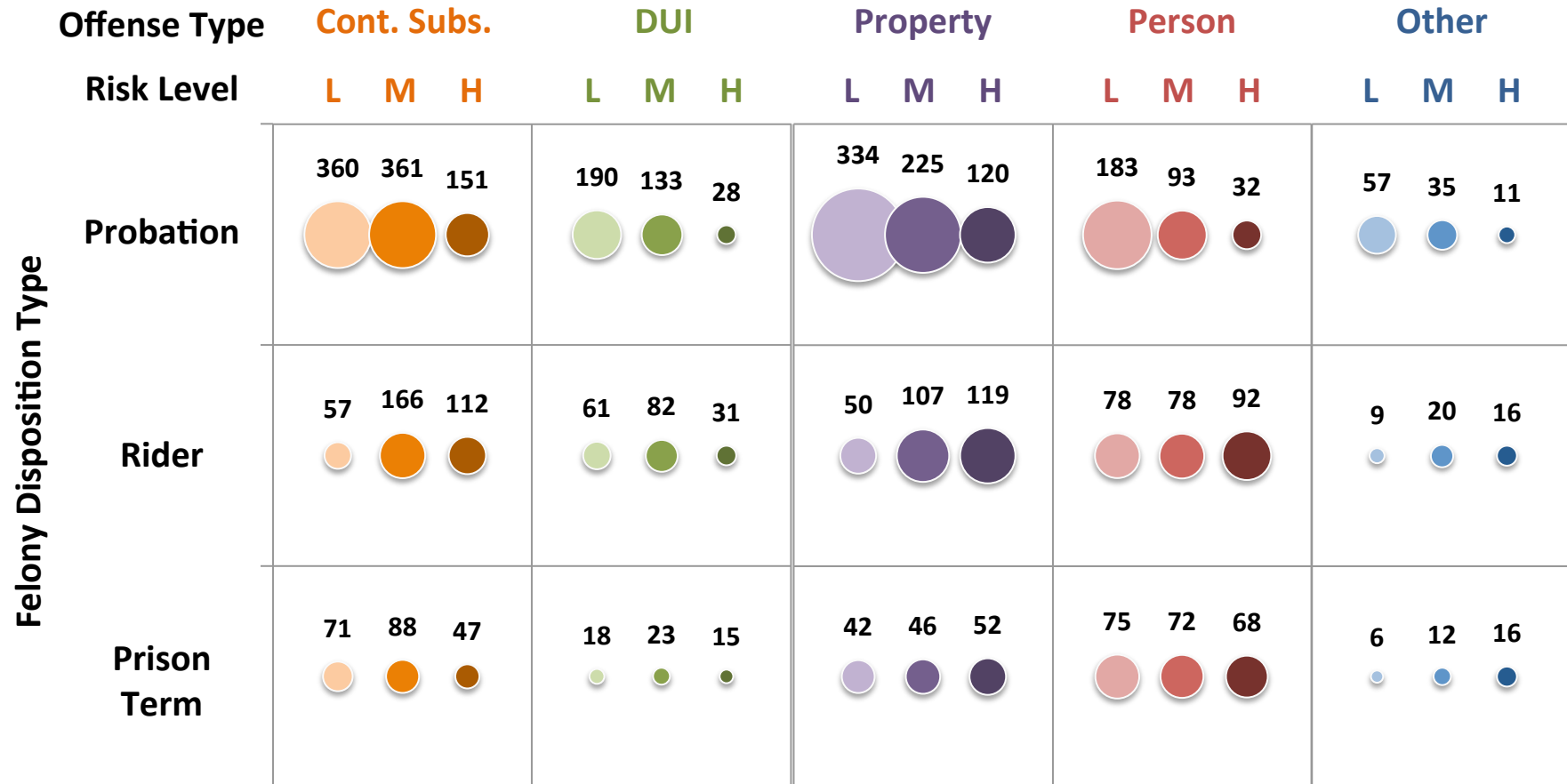
Decision-Making

Program / Supervision Intensity

	PRETRIAL	SENTENCING	PAROLE RELEASE	PROBATION/ PAROLE	RIDER TRIO OF OPTIONS	PRISON
PURPOSE	<ul style="list-style-type: none"> • Failure to appear • Recidivism 	<ul style="list-style-type: none"> • Risk of recidivism • Program, Treatment 	<ul style="list-style-type: none"> • Risk of recidivism 	<ul style="list-style-type: none"> • Supervision Intensity • Program, Treatment 	<ul style="list-style-type: none"> • Program needs 	<ul style="list-style-type: none"> • Program needs
USED IN IDAHO?	At least 5 Counties	Yes	Yes	Yes	Yes	Yes
GUIDANCE IN STATUTE OR POLICY	No	Treatment - Yes	No	Yes	Yes	Yes
		Admission Criteria - No				
TOOL(s) USED	<ul style="list-style-type: none"> • IPRAI • Other 	<ul style="list-style-type: none"> • LSI • GAIN Core • TCU 	<ul style="list-style-type: none"> • LSI from prison intake 	<ul style="list-style-type: none"> • LSI 	<ul style="list-style-type: none"> • LSI • RDU • Assessments 	<ul style="list-style-type: none"> • LSI

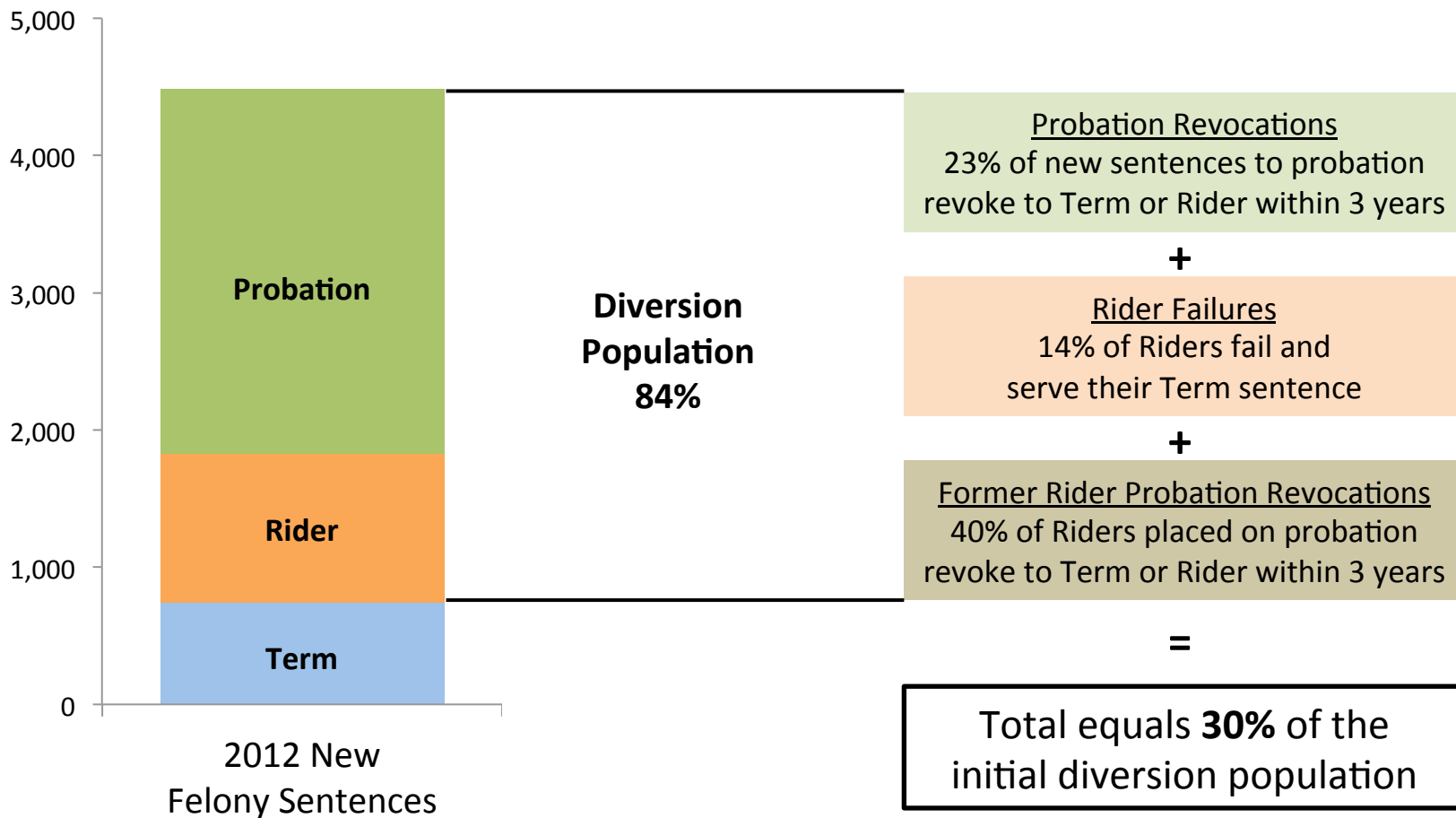
Low-risk offenders are more likely to be placed on probation

New Felony Sentences by Risk, FY2012 (N = 4,485)



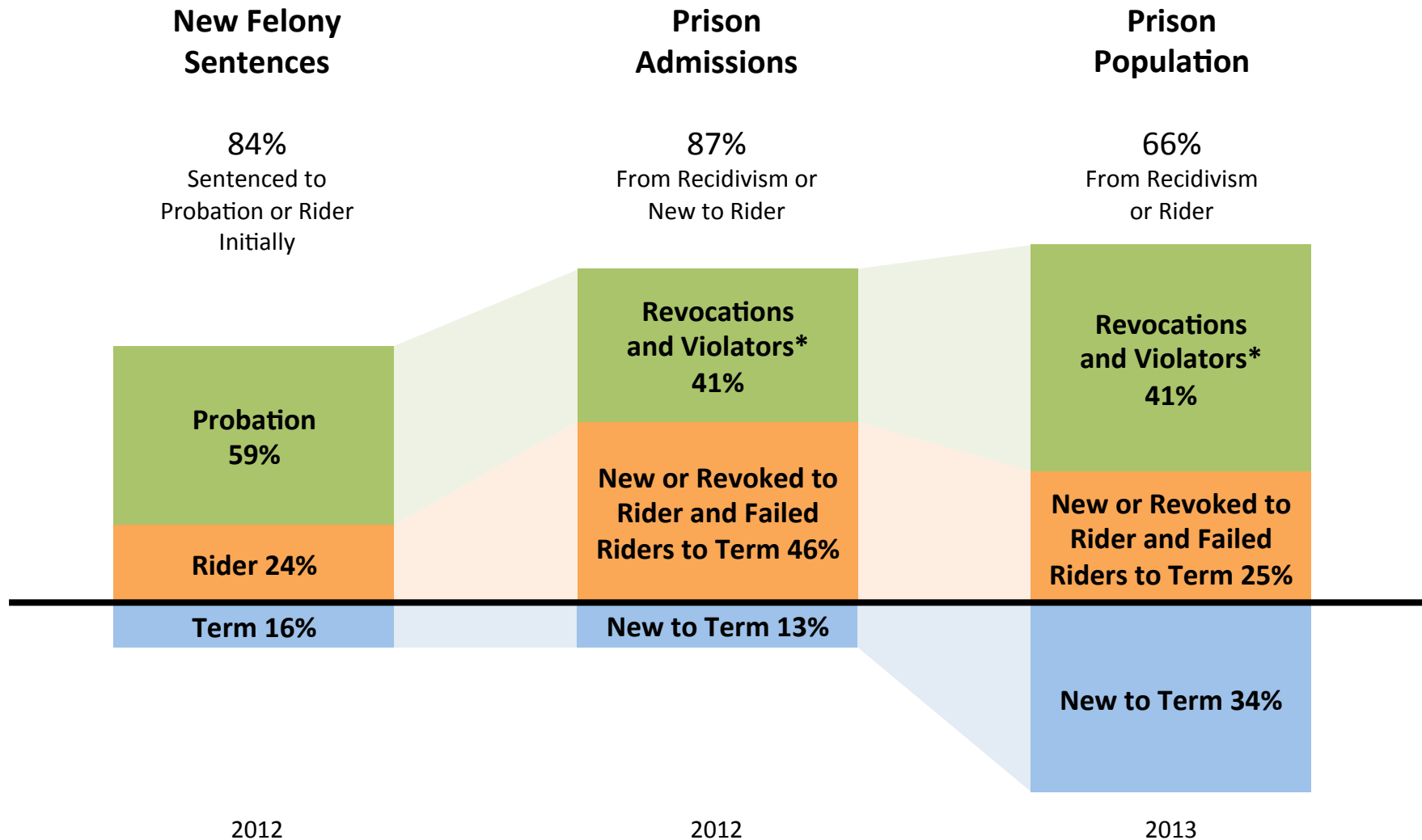
Source: IDOC admissions and release data.

30 percent of initial diversions are later revoked to a prison term within three years



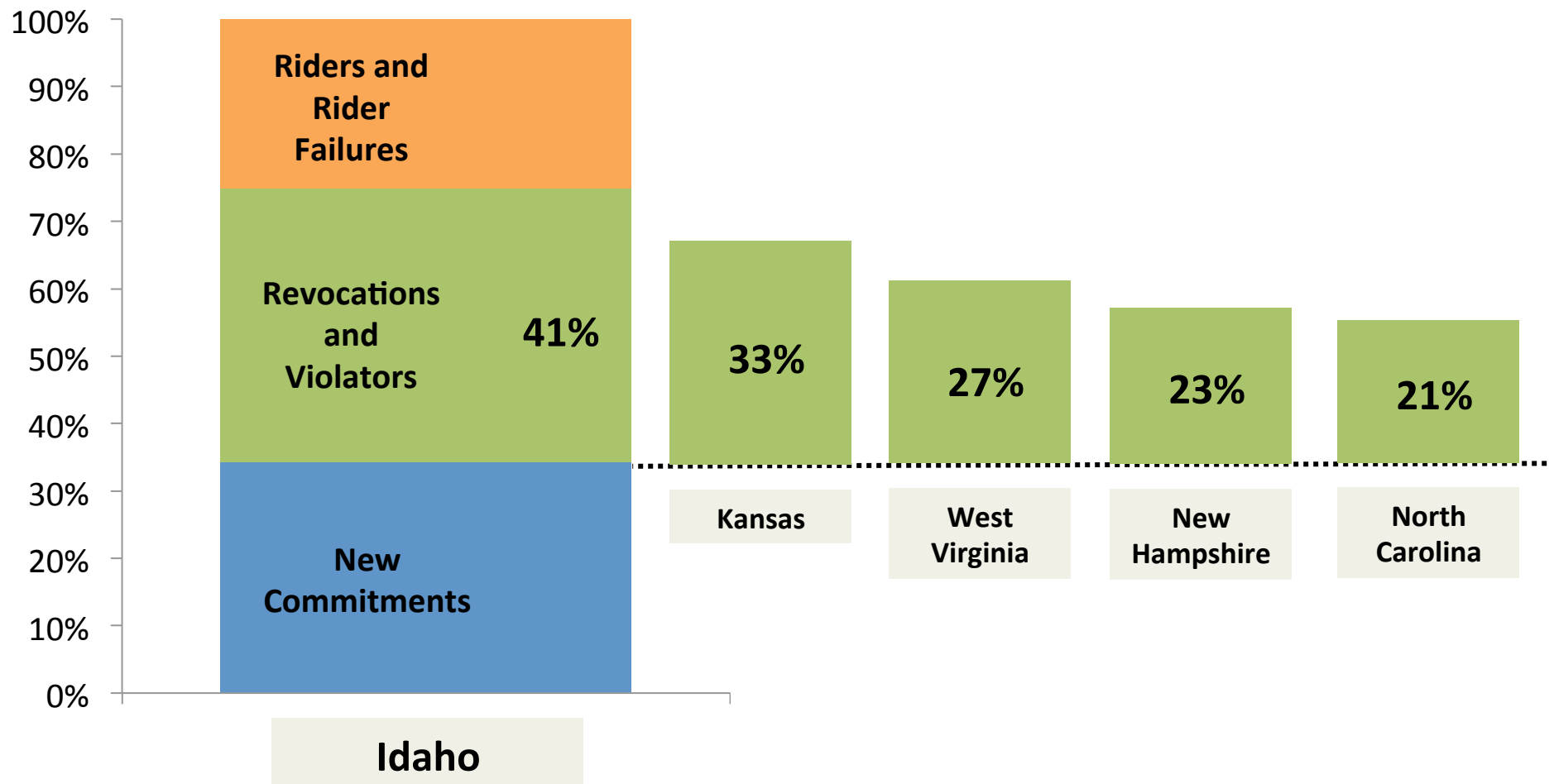
Source: IDOC admissions and release data.

Revocations and Riders account for 87% of prison admissions and 2/3 of the prison population



Source: IDOC admissions and release data.

Revocations take up a much smaller portion of prison beds in other states



Source: IDOC standard monthly reports and snapshot data. CSG Justice Center data from past Justice Reinvestment states.

Overview

**Recidivism from supervision and
diversion programs**



**How Idaho can lower recidivism
by using best practices**

Long and costly sanctions for revocations

Judges want stronger supervision and more treatment resources



District judges surveyed recognized the critical importance of both quality community-based supervision, as well as programs and treatment, in lowering recidivism

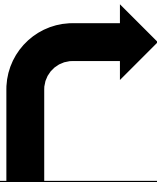
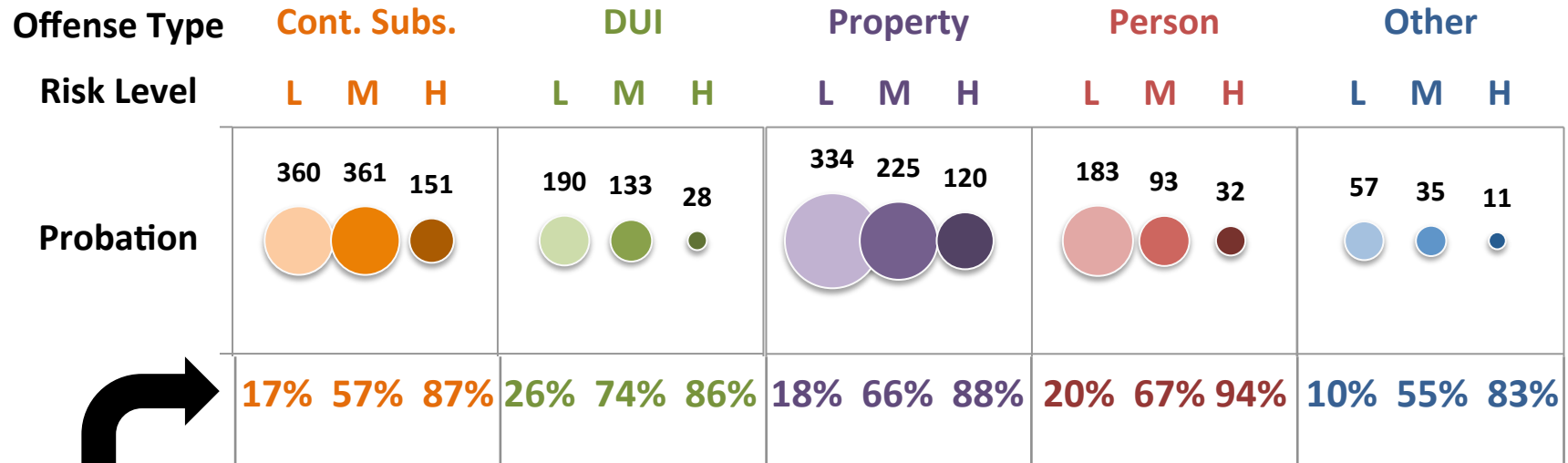
Additional intensive probation supervision programs should be available

More resources should go to probation officers for supervision

Fund and staff more Probation Officers for adequate supervision in appropriate ways

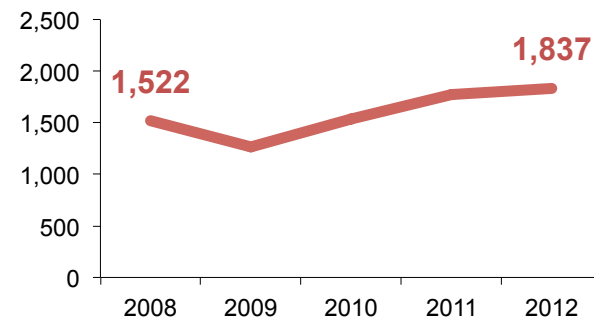
Low-risk offenders usually succeed on probation, but high risk offenders are more often revoked from supervision

New Probation Sentences by Risk, FY2012



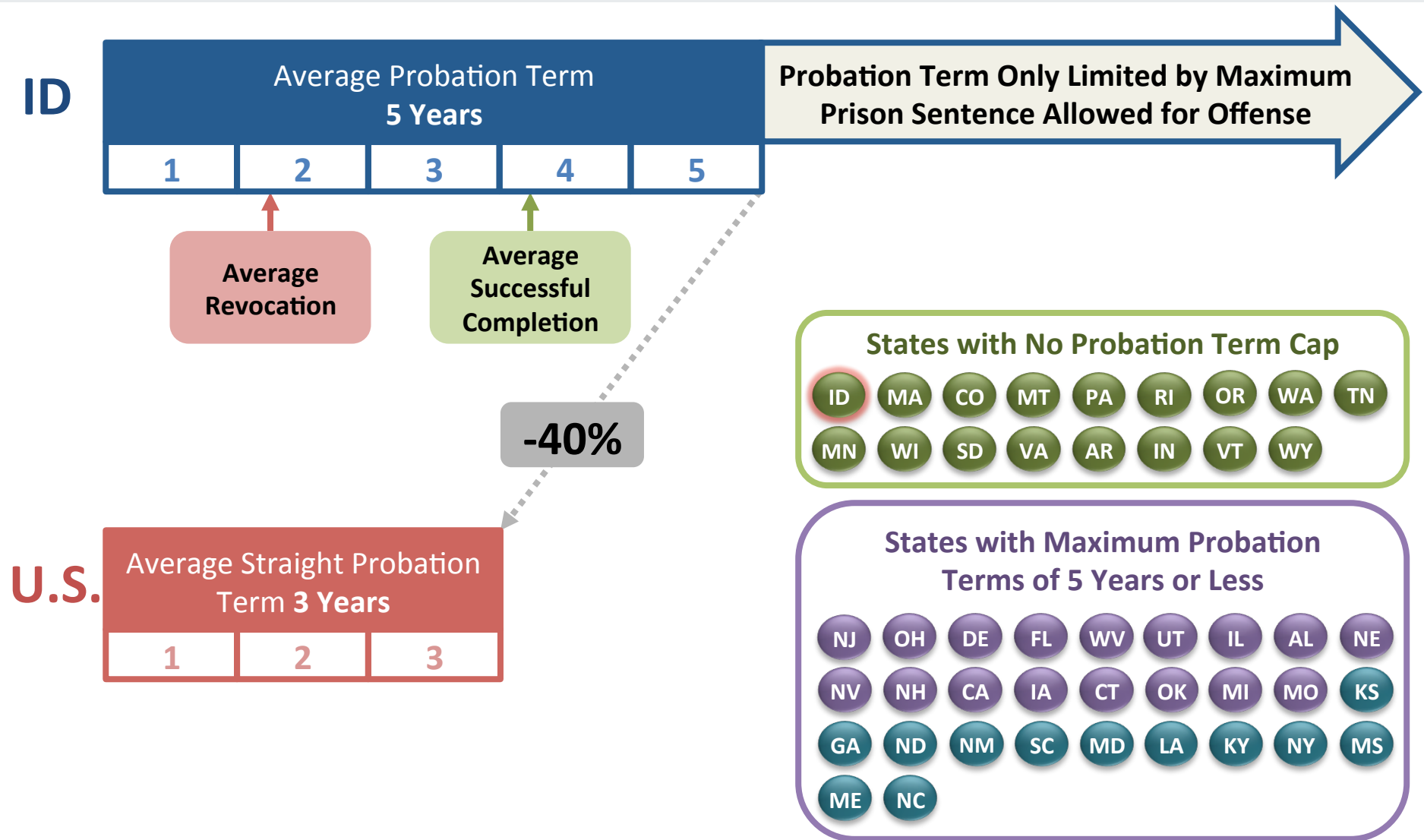
Probation Failure Rate
Among probation terminations
by Risk and Offense, FY2012

Probation revocations are up 21% over the past five years



Source: IDOC admissions and release data.

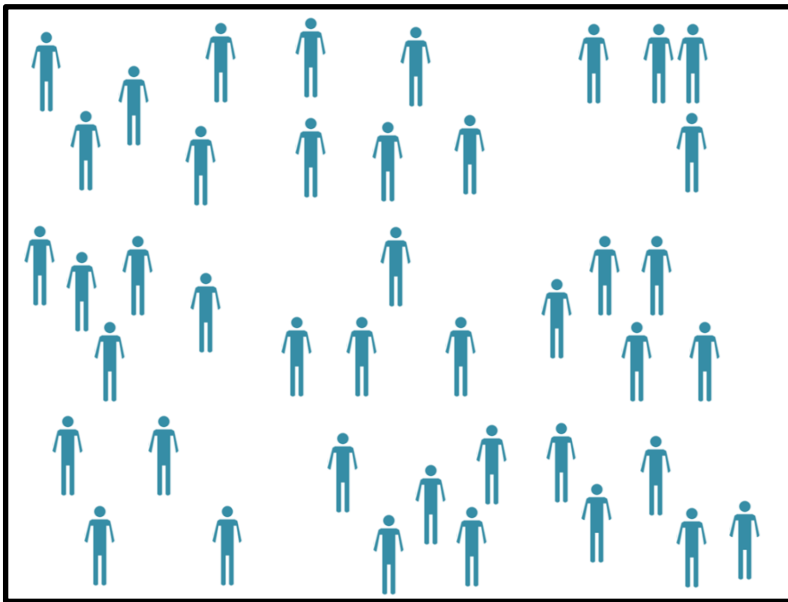
Idaho among a minority of states not capping felony probation terms



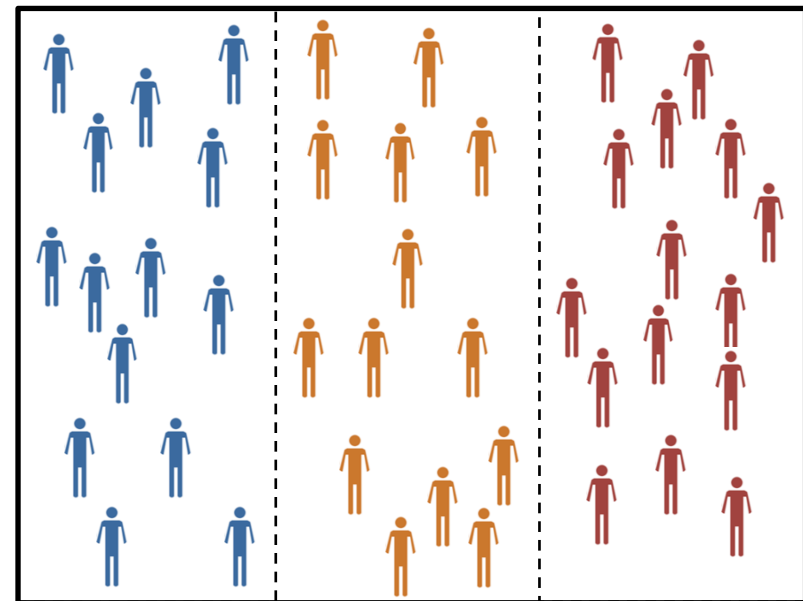
Source: IDOC admissions and release data, BJS, *Felony Sentences in State Courts, 2006—Statistical Tables*.

Idaho identifies and differentiates its supervision population based on risk of re-offending

Without Risk Assessment...



With Risk Assessment...



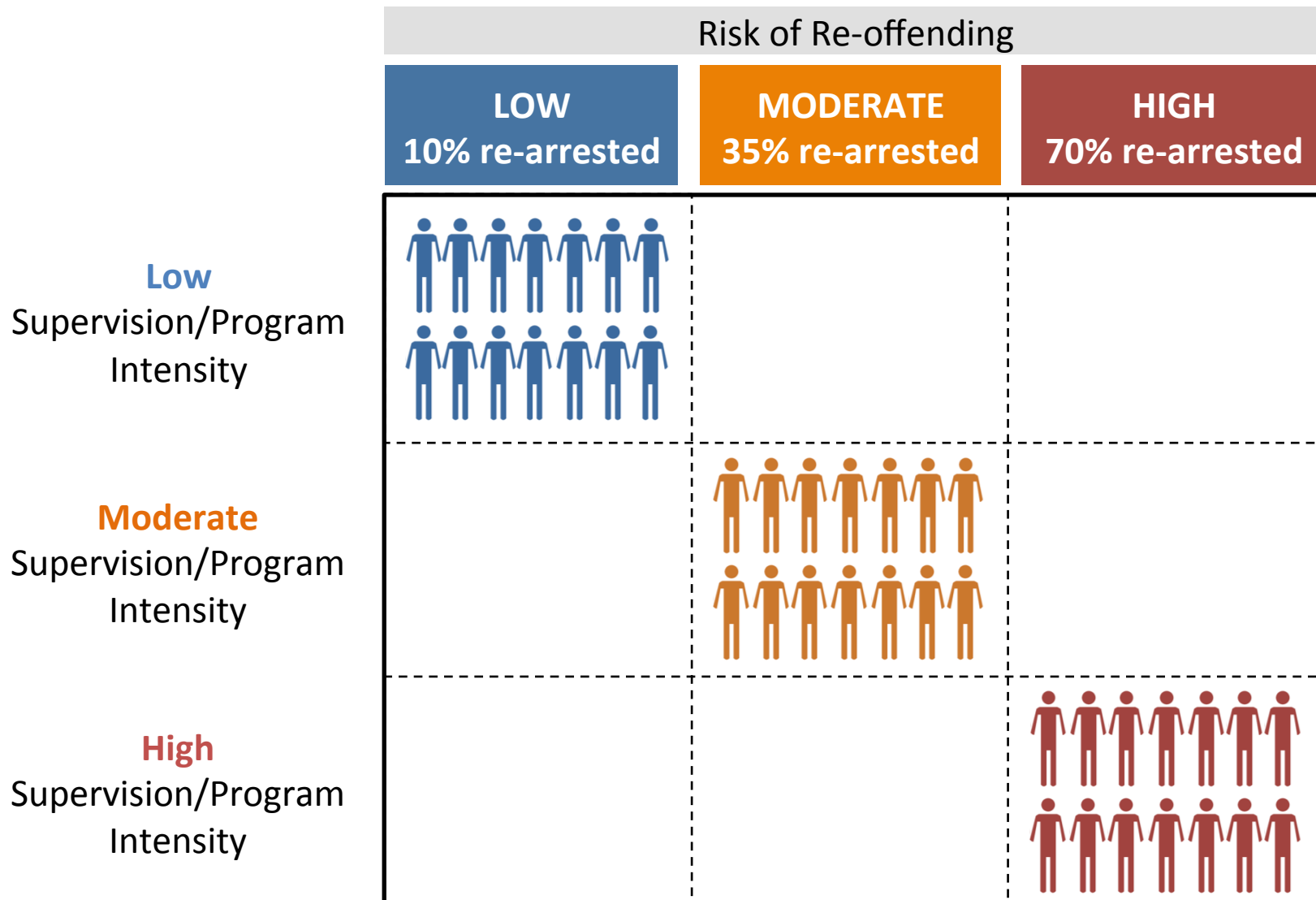
Risk of Re-offending

LOW
10%
re-arrested

MODERATE
35%
re-arrested

HIGH
70%
re-arrested

Focusing a high-enough “dosage” on high-risk supervision population would yield better outcomes



Continuum of responses available to supervision agencies to hold offenders accountable for behavior change

Responses to supervision compliance can reduce recidivism as much as or more than sanctions, when they are known ahead of time to the offender

On average, two sanctions were applied before a violation report was submitted by PPOs in 2013

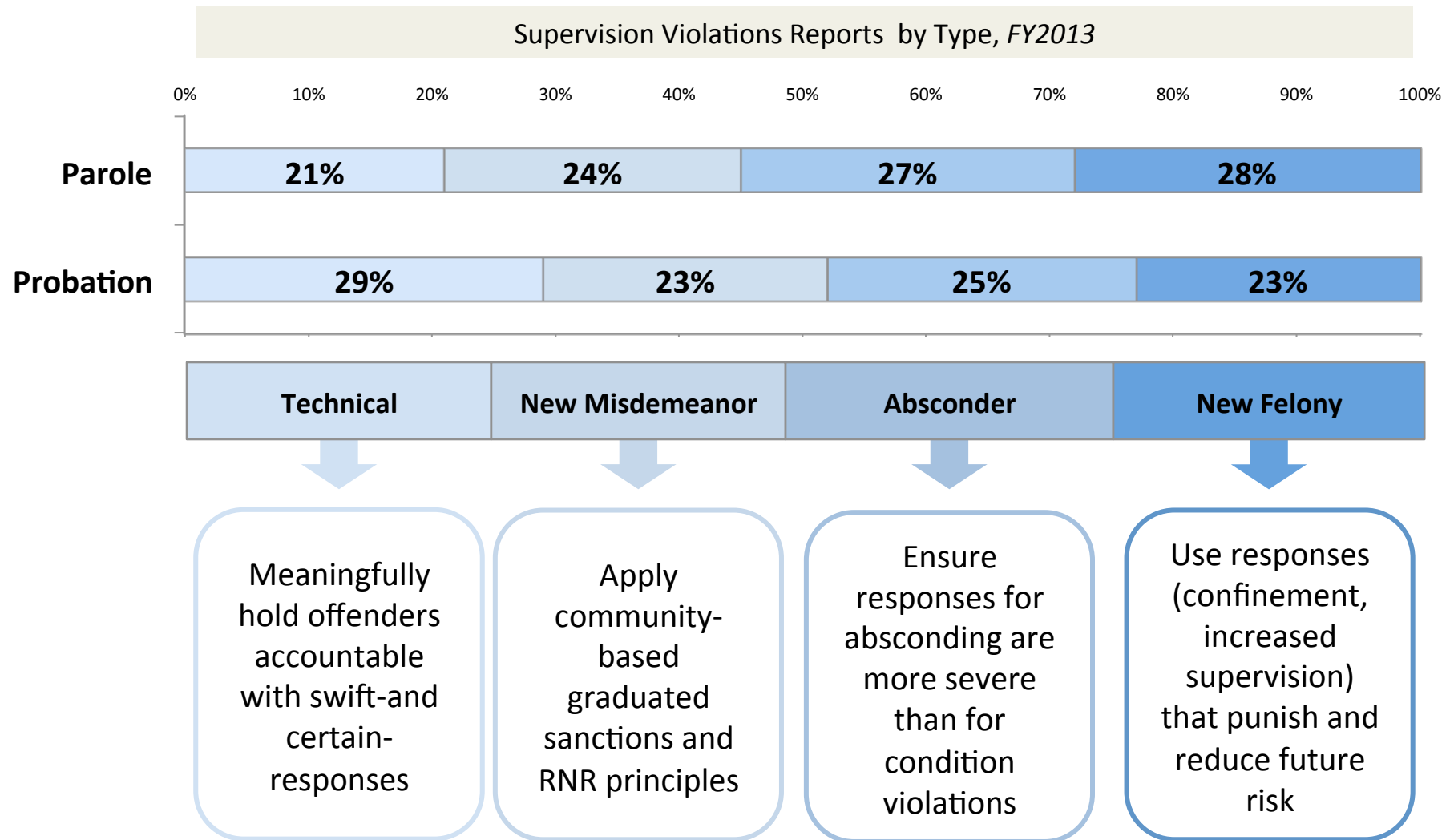
Modify supervision level Modify restrictiveness of conditions Modify travel restrictions Verbal praise

Increase reporting requirements Short Jail Stay Problem solving courts Institutional program Revocation to prison

On average, less than two treatment interventions were applied before a violation report was submitted

Most restrictive responses should be prioritized based on risk and seriousness of violation

Reported violations present opportunities for effective responses to offender behavior while on supervision



Source: Probation and parole supervision violation reports ("Bubble Sheets"), FY2013

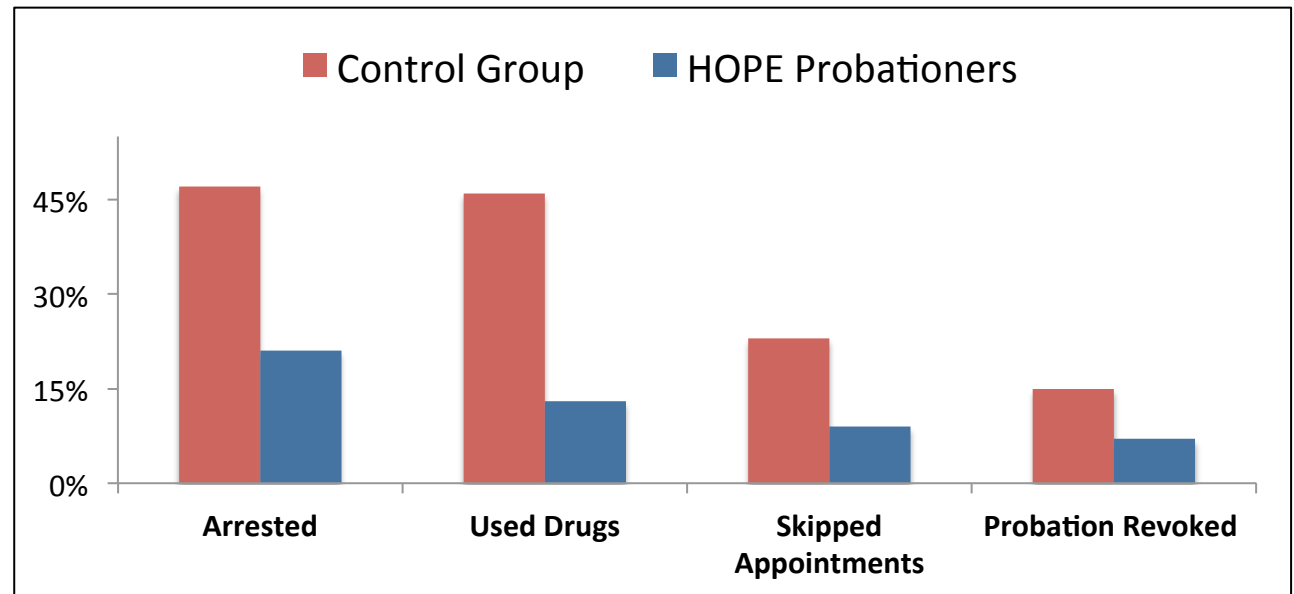
Research, evaluation, and practice coalesce around effectiveness of swift-and-certain responses to supervision violations



In Honolulu, Judge Alm pioneered a probation program applying supervision, drug testing, and violation responses involving swift, certain, and brief jail sanctions.

NIJ evaluation showed significant reductions in key supervision outcome measures.

Research confirms the science behind HOPE: the **swiftness** of the timing of the response and the **certainly** that there will be a response impacts offender behavior to a greater degree than the **length** of the time behind bars.



Source: NIJ Hawaii HOPE evaluation <http://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf>

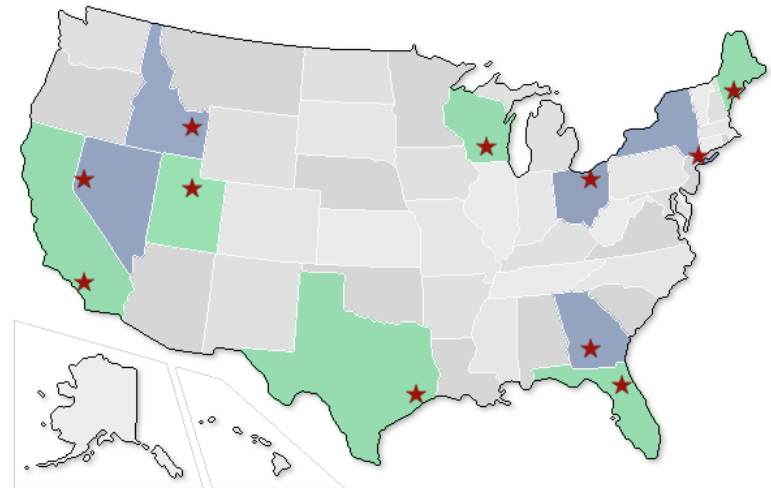
Idaho's Specialty Courts Are Highly Regarded on A National Level

64 Problem Solving Courts:

- 24 Felony Drug Courts
- 11 Adult Mental Health Courts
- 1 Juvenile Mental Health Court
- 9 Misdemeanor/DUI Courts
- 4 DUI Courts
- 8 Juvenile Drug Courts
- 4 Child Protection Drug Courts
- 3 Veterans Courts

Bonneville County Mental Health Court

is one of five national sites chosen for peer-to-peer learning due to programmatic successes



The goal of specialty courts is to promote effective interaction and use of resources among the courts, justice system personnel and community agencies.

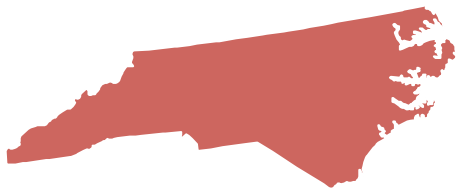
States nationwide are adopting swift-and-certain responses in policy



At sentencing, judge may delegate authority to the supervising agency to impose a certain number of jail-bed days in response to violation of conditions of supervision



Supervision agencies then create graduated-sanction policies to ensure that this response is used fairly and reasonably to maximize potential for effective responses to violations.



In North Carolina, judges may allow for a maximum of 6 days per months for a total of 18 days. The maximum number of days of jail confinement may not exceed two- or three-day periods.

Numerous other states have established similar policies

Arkansas	New Hampshire
Georgia	Oregon
Louisiana	South Carolina
Missouri	Washington

Source:

Discretionary Jail Time is used widely, but would benefit from clearer grounding in evidence-based practices

DJT is used only if ordered by the court as a special condition of probation

PPOs may use DJT as an intermediate response

No cap for DJT length or frequency appears in policy

Judges authorize the use of DJT in a majority of cases

88% of sheriffs indicated use of their jails beds for DJT

Length of jail sanctions range from 1 to 30 days

It is currently not used as a sanction for parole violators



Sheriffs reported variation in the use of DJT and requested greater consistency in policy

Overview

Recidivism from supervision and diversion programs

How Idaho can lower recidivism by using best practices



Long and costly sanctions for revocations

Revocations to term are long and costly – because underlying sentence is imposed

Probation Revocations to Term

2012 probation revocations to Term 675	X	Average length of stay in Term for probation revocations 1.8 years	X	IDOC cost per day \$53	=	Potential cost of revocations to Term \$23M
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Parole Revocations

2012 parole revocations 595	X	Average length of stay on Parole Violator and Term status 1.6 years	X	IDOC cost per day \$53	=	Potential cost of revocations to Term \$18M
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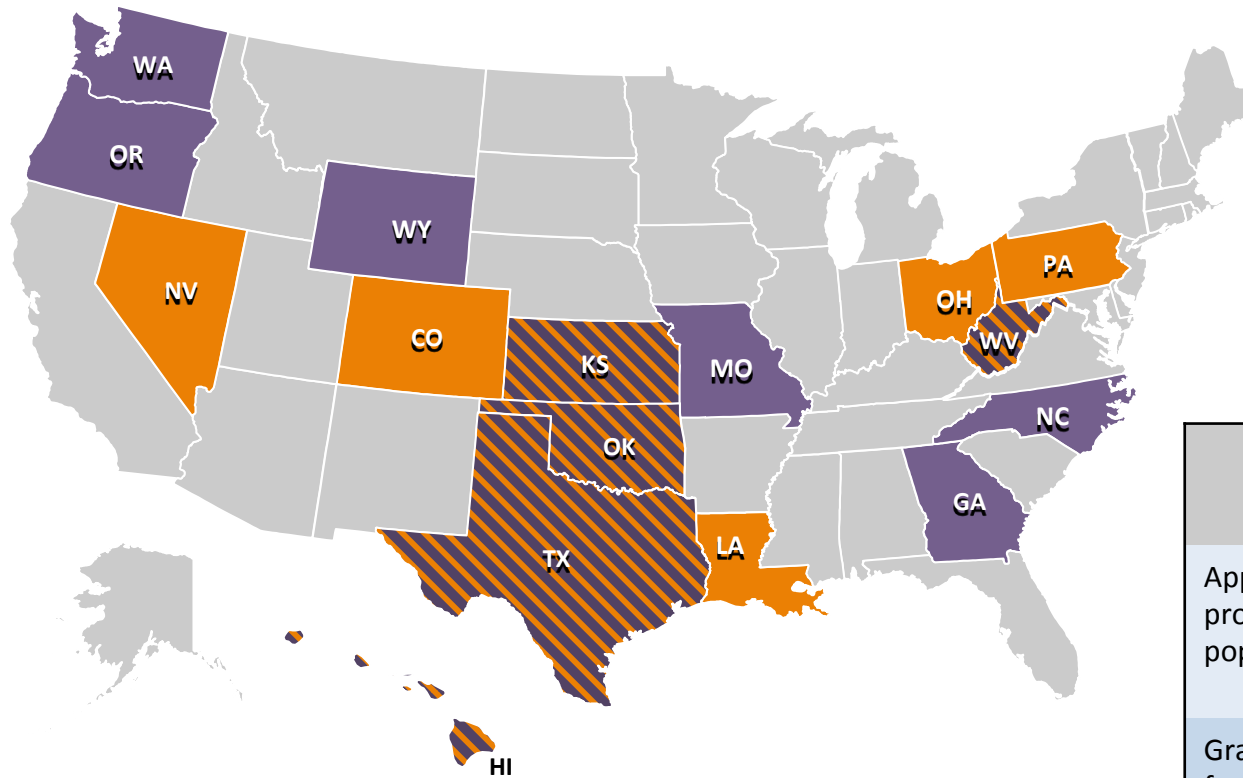
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Potential cost of 2012 supervision revocations \$41M

Source: IDOC admissions and release data.

States are using tailored revocation terms to respond to supervision violations



Eligible Population

- Parole
- Probation
- Probation and Parole

Observations about the State Examples

Applies to both probation and parole populations	Kansas, Hawaii, Oklahoma, Texas, and West Virginia
Graduated responses for subsequent violations	Kansas, Pennsylvania, Washington, and West Virginia
Affects lengths of stay in secure community correction programs	Georgia, Missouri, Oklahoma, and Pennsylvania

Idaho's sentencing statutes contain few stratifications within offense types

	Idaho Statute	Idaho 2012 Average Sentence	National Average Max	Idaho Statute Notes
Burglary	1 year fixed 10 year unified	2.6 to 7.9	4.75 years	Burglary with explosives 10-25. Entering a store with intent to shoplift constitutes burglary, regardless of value.
Grand Theft	1 year fixed 14 year unified	2.5 to 9.8	3.2 years	Felony threshold \$1000. Value does not matter if extortion, weapons, checks/credit cards, pickpocketing, etc. Theft also encompasses embezzlement and receiving stolen goods.



In Texas, felony theft is split into levels based on dollar amount or circumstance:

\$1,500-\$20K	State Jail felony	180 days to 2 years
\$20K-\$100K	3 rd Degree felony	2 to 10 years
\$100K-\$200K	2 nd Degree felony	2 to 20 years
>\$200K	1 st Degree felony	5 to 99 years

Without built in stratifications proportionality, predictability and certainty of sentencing within offense types is hard to maintain

Source: IDOC admissions and release data, Idaho and Texas criminal codes, BJS, *National Judicial Reporting Program Felony Sentences in State Courts*, 2006.

Widely ranging lengths of incarceration are tied to original offense

	Idaho Statute	Idaho 2012 Average Sentence	National Average Max	Idaho Statute Notes
Forgery	1 year fixed 14 year unified	2.0 to 8.6	3.75 years	No minimum dollar value specified, no misdemeanors.



Term Sentence
Imposed
1 to 5 years

Probation LOS 3.6 years

Two People Revoked from Probation in 2012

- Both initially put on probation for Forgery
- Neither had prior DOC stays
- Both Low overall risk level



Term Sentence
Imposed
5 to 14 years

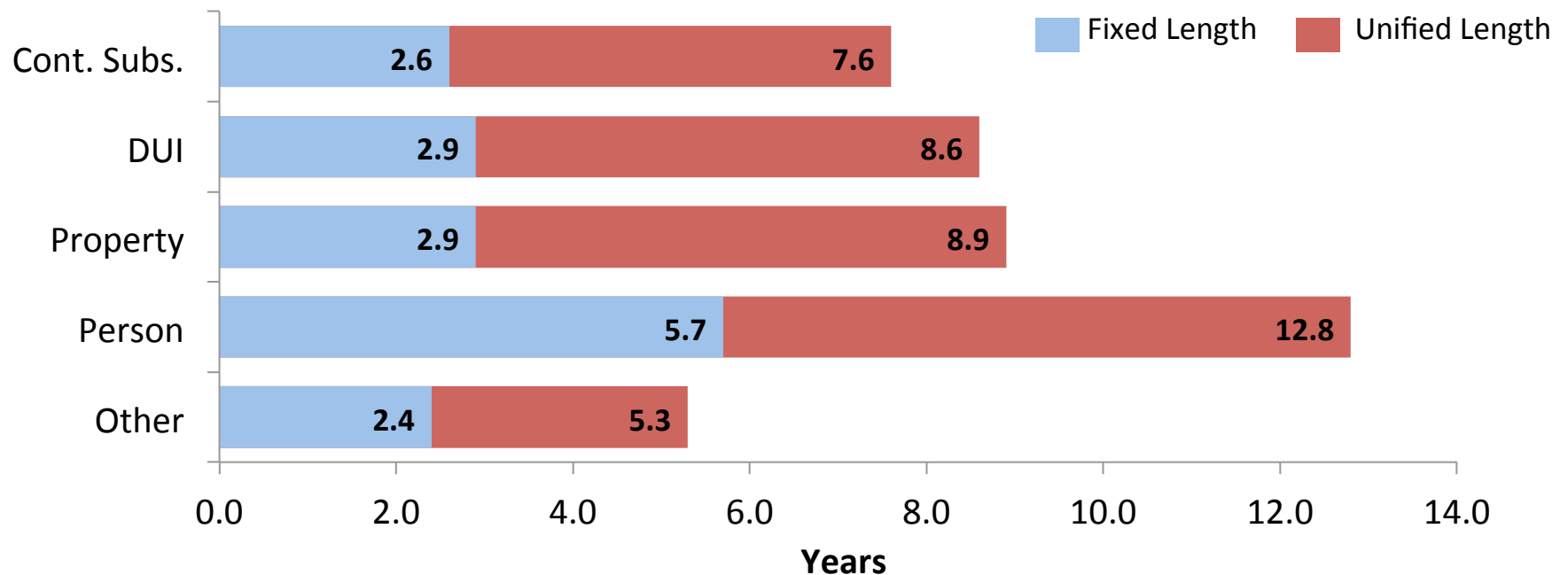
Probation LOS 4.8 years

Source: IDOC admissions and release data, Idaho and Texas criminal codes, BJS, *National Judicial Reporting Program Felony Sentences in State Courts*, 2006.

Lengthy discretionary parole release periods fall between fixed and unified sentences

The average unified sentence to Term was 2.6 times longer than the fixed period, creating a long discretionary period for parole consideration

Average Fixed and Unified Sentence Lengths Among New by Offense Type, FY2012



Source: IDOC admissions and release data.

The average parole release occurs well beyond the fixed sentence length



For the average first time parolee in 2012, release occurred after 207% of the fixed sentence had been served

The average parole release point has dropped 9% over the past 5 years

The average percentage of fixed sentence length served is not differentiated by risk

	Risk Level		
	Low	Mod	High
Average Parole Release Point	215%	233%	178%

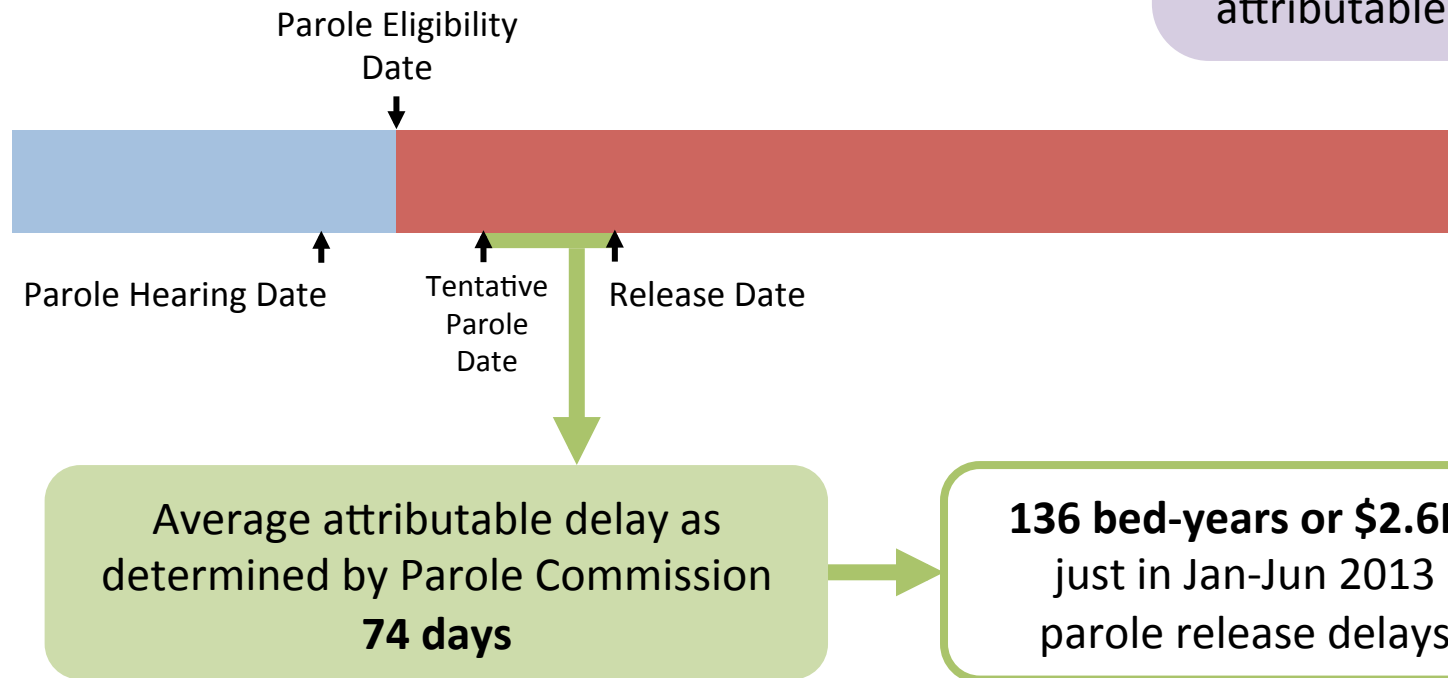
Source: IDOC admissions and release data.

Delays in release following a parole approval may cost \$5 million in 2013 alone

Jan-Jun 2013 Commission of Pardons and Paroles Log of Releases and Delays

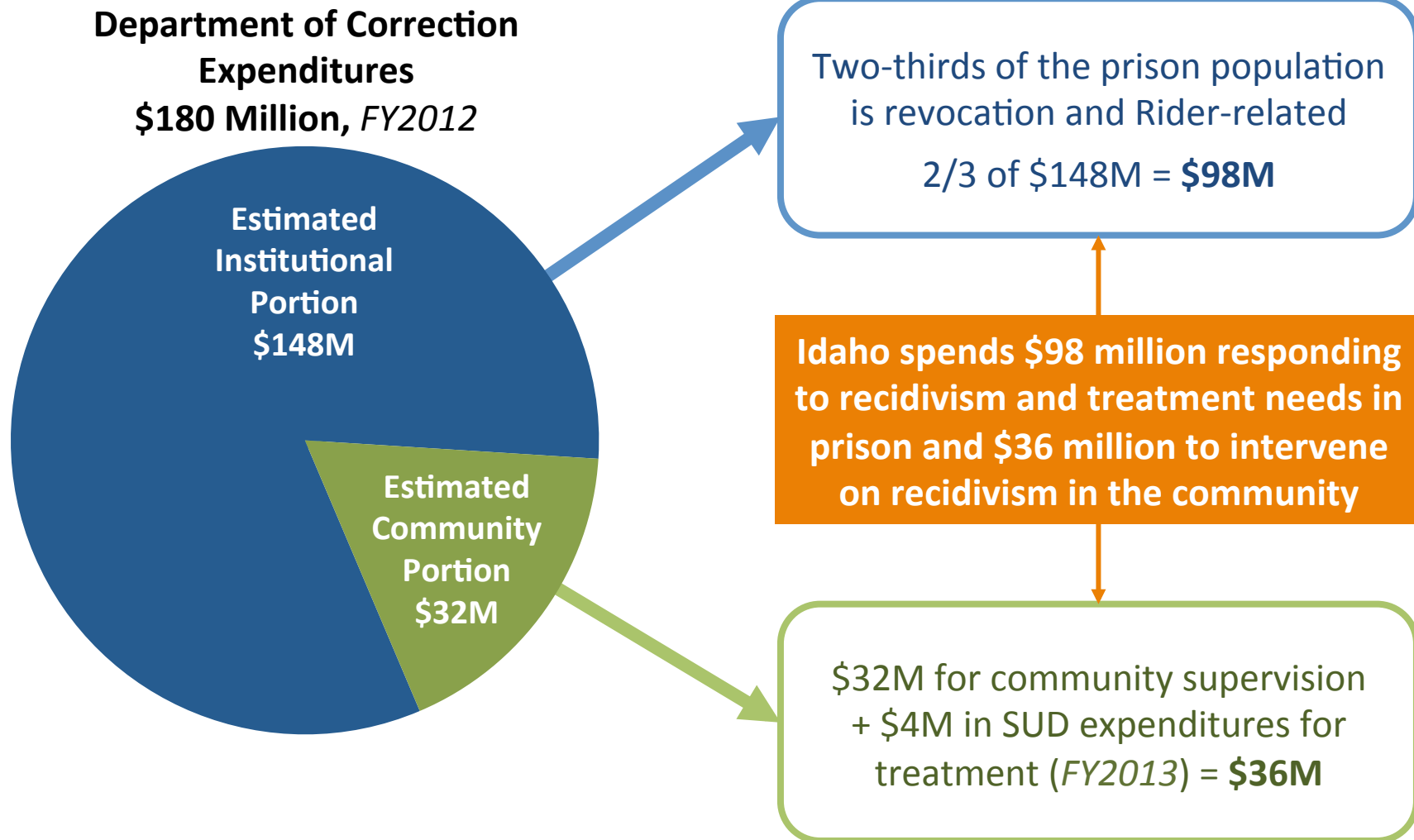
673 total parole releases
475 with releases past Tentative Parole Date
389 with attributable days of delay

Delay in Program Entry or Completion
affected **64%** of those with attributable delays



Source: Parole Commission release delay data.

Spending focused on responding to recidivism not community-based intervention



Source: Fiscal Year 2014 Idaho Legislative Budget Book.

Summary of Today's Presentation – The Big Picture

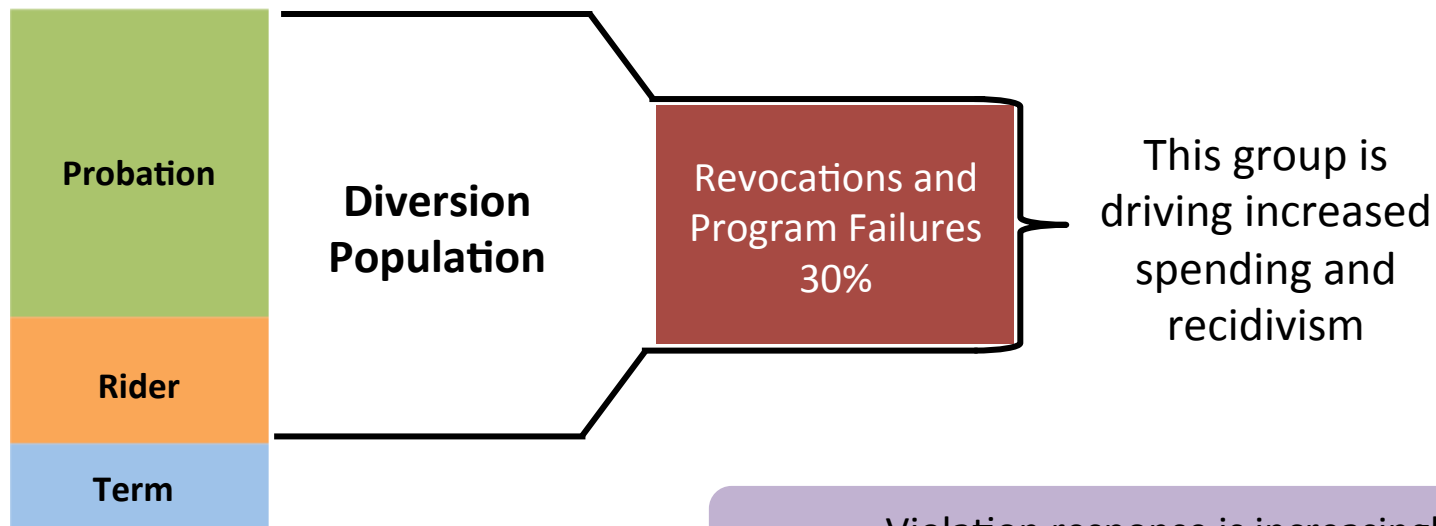
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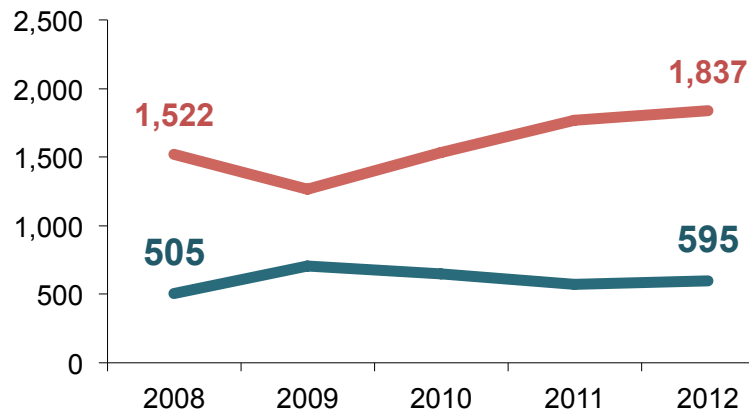
Rates of recidivism could be lowered by increasing the use of best practices

Sanctions for revocations are long and costly, and not tailored for supervision violation behavior

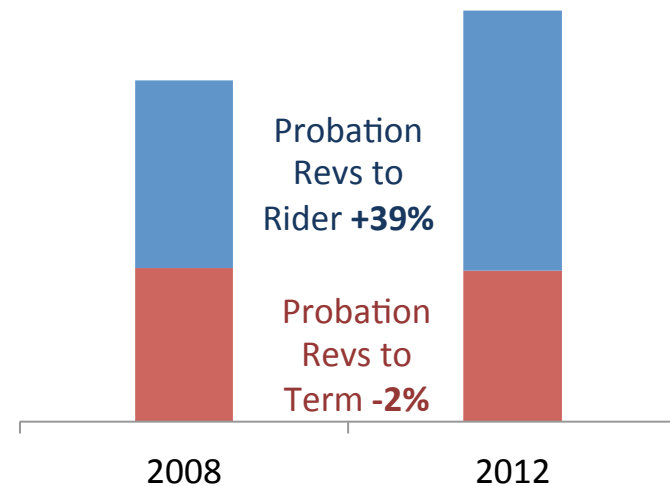
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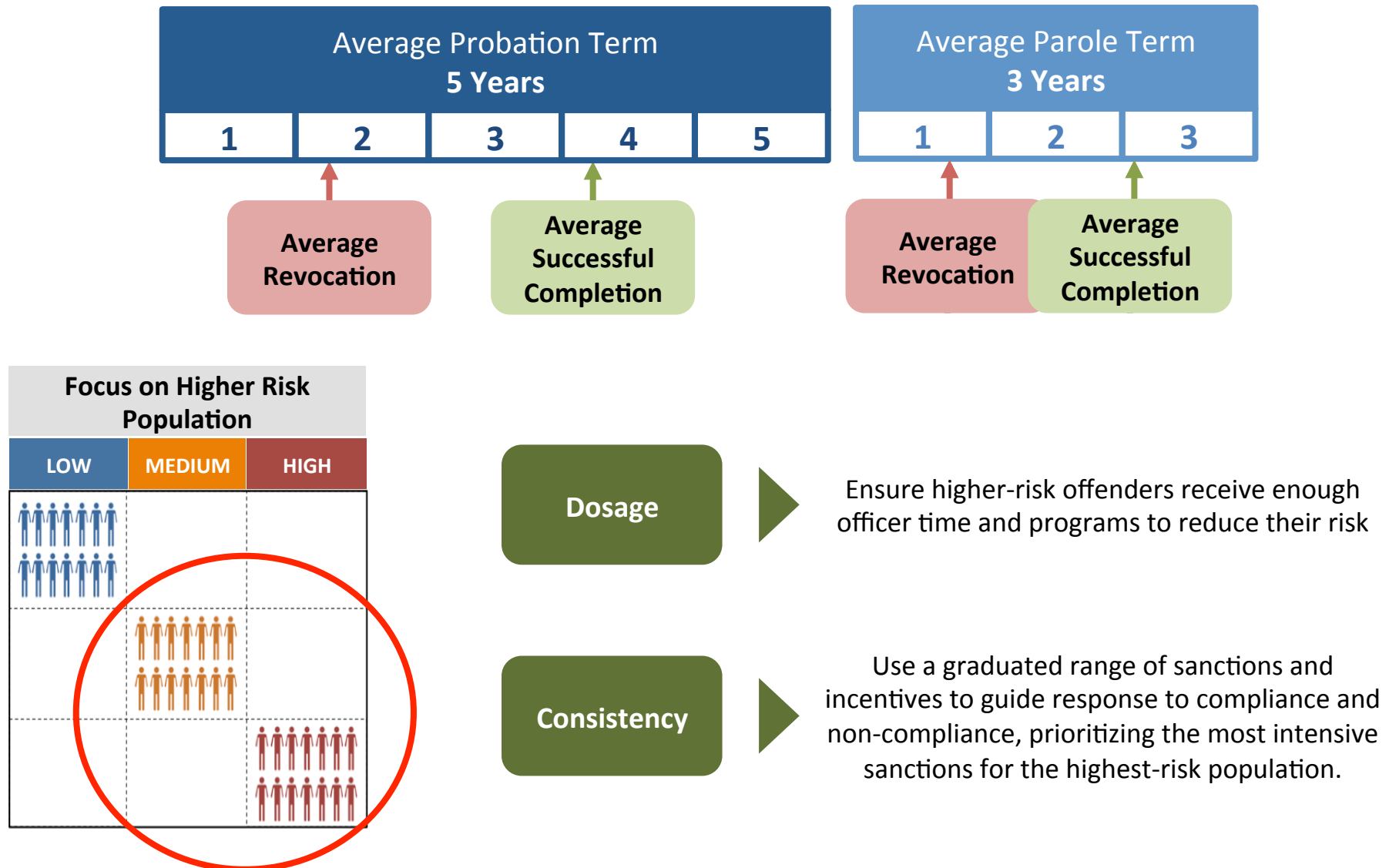
Probation revocations up 21%, and parole revocations up 18% over the past five years



Violation response is increasingly relying on Rider and prison-based programming



Rates of recidivism could be lowered by increasing the adoption of best practices

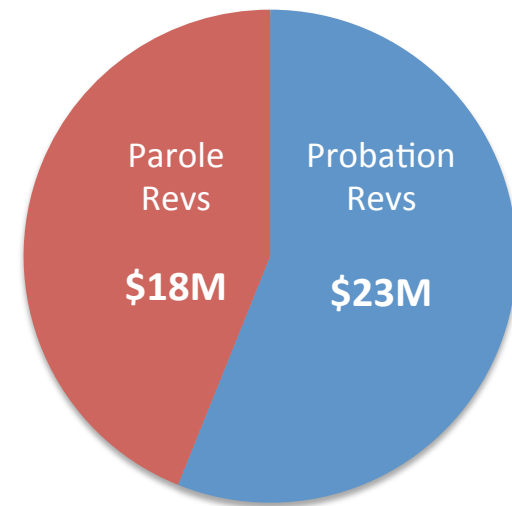


Sanctions for revocations are long and costly, and not tailored for supervision violation behavior

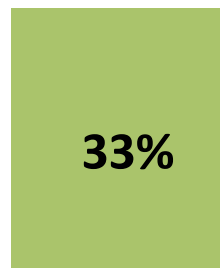
Lengthy Prison Stays After Revocations



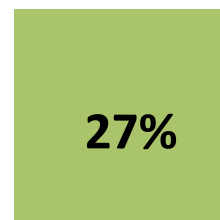
Potential Annual Cost of Supervision Revocations to Term: **\$41 million**



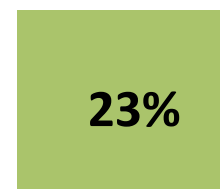
Idaho



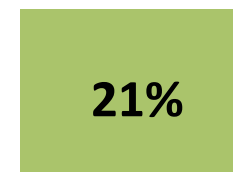
Kansas



West
Virginia



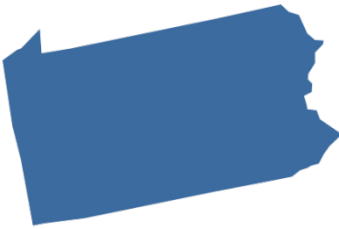



New
Hampshire

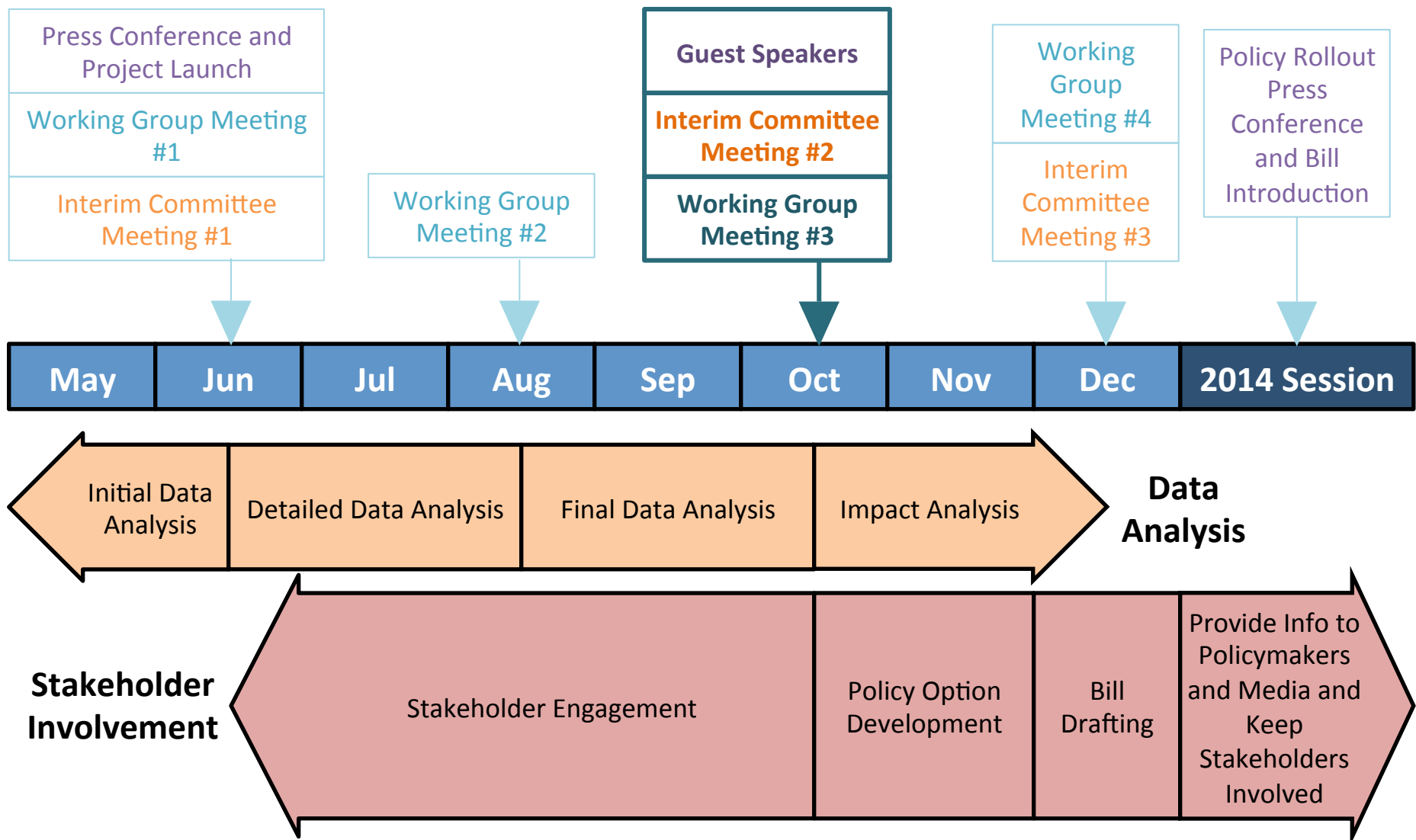


North
Carolina

Four principles of effective reinvestment

STATE	APPROACH	POLICY
	Up-front investment	Reinvested in first two years in substance use treatment for supervision population
	Maximize impact of existing investments	Reallocated existing behavioral health reinvestment based on evidence-based practices
	Require reinvestment in statute over time	Created four-year reinvestment schedule to support law enforcement, victim services, and risk assessment
	Create incentive for additional reinvestment based on performance	Counties that reduced probation revocations eligible for incentive funding

Proposed Timeline



Thank You



Anne Bettesworth, Policy Analyst
abettesworth@csg.org

JUSTICE★CENTER
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